

SECOND REGULAR SESSION

# HOUSE BILL NO. 1360

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SCHEVE.

Pre-filed January 3, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2991L.011

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### AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof one new section relating to eligibility for public assistance.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 208.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.010, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 division) of such husband or wife living separately. In determining the need of a claimant in  
18 federally aided programs there shall be disregarded such amounts per month of earned income  
19 in making such determination as shall be required for federal participation by the provisions of  
20 the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When  
21 federal law or regulations require the exemption of other income or resources, the division of  
22 family services may provide by rule or regulation the amount of income or resources to be  
23 disregarded.

24 2. Benefits shall not be payable to any claimant who:

25 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given  
26 away or sold a resource within the time and in the manner specified in this subdivision. In  
27 determining the resources of an individual, unless prohibited by federal statutes or regulations,  
28 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this  
29 subsection, and subsection 5 of this section) any resource or interest therein owned by such  
30 individual or spouse within the twenty-four months preceding the initial investigation, or at any  
31 time during which benefits are being drawn, if such individual or spouse gave away or sold such  
32 resource or interest within such period of time at less than fair market value of such resource or  
33 interest for the purpose of establishing eligibility for benefits, including but not limited to  
34 benefits based on December, 1973, eligibility requirements, as follows:

35 (a) Any transaction described in this subdivision shall be presumed to have been for the  
36 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such  
37 individual furnishes convincing evidence to establish that the transaction was exclusively for  
38 some other purpose;

39 (b) The resource shall be considered in determining eligibility from the date of the  
40 transfer for the number of months the uncompensated value of the disposed of resource is  
41 divisible by the average monthly grant paid or average Medicaid payment in the state at the time  
42 of the investigation to an individual or on his or her behalf under the program for which benefits  
43 are claimed, provided that:

44 a. When the uncompensated value is twelve thousand dollars or less, the resource shall  
45 not be used in determining eligibility for more than twenty-four months; or

46 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall  
47 not be used in determining eligibility for more than sixty months;

48 (2) The provisions of subdivision (1) of subsection 2 of this section shall not apply to  
49 a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the  
50 claimant furnishes convincing evidence that the uncompensated value of the disposed of resource  
51 or any part thereof is no longer possessed or owned by the person to whom the resource was  
52 transferred;

53           (3) Has received, or whose spouse with whom he or she is living has received, benefits  
54 to which he or she was not entitled through misrepresentation or nondisclosure of material facts  
55 or failure to report any change in status or correct information with respect to property or income  
56 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be  
57 ineligible for such period of time from the date of discovery as the division of family services  
58 may deem proper; or in the case of overpayment of benefits, future benefits may be decreased,  
59 suspended or entirely withdrawn for such period of time as the division may deem proper;

60           (4) Owns or possesses resources in the sum of [one] **three** thousand dollars or more;  
61 provided, however, that if such person is married and living with spouse, he or she, or they,  
62 individually or jointly, may own resources not to exceed [two] **five** thousand dollars; and  
63 provided further, that in the case of a temporary assistance for needy families claimant, the  
64 provision of this subsection shall not apply. **Such resource limits shall be adjusted based on**  
65 **the cost-of-living adjustment as determined annually by the federal Department of Health**  
66 **and Human Services;**

67           (5) Prior to October 1, 1989, owns or possesses property of any kind or character,  
68 excluding amounts placed in an irrevocable prearranged funeral or burial contract pursuant to  
69 subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053,  
70 RSMo, or has an interest in property, of which he or she is the record or beneficial owner, the  
71 value of such property, as determined by the division of family services, less encumbrances of  
72 record, exceeds twenty-nine thousand dollars, or if married and actually living together with  
73 husband or wife, if the value of his or her property, or the value of his or her interest in property,  
74 together with that of such husband and wife, exceeds such amount;

75           (6) In the case of temporary assistance for needy families, if the parent, stepparent, and  
76 child or children in the home owns or possesses property of any kind or character, or has an  
77 interest in property for which he or she is a record or beneficial owner, the value of such  
78 property, as determined by the division of family services and as allowed by federal law or  
79 regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home  
80 occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract  
81 pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of  
82 section 436.053, RSMo, one automobile which shall not exceed a value set forth by federal law  
83 or regulation and for a period not to exceed six months, such other real property which the family  
84 is making a good-faith effort to sell, if the family agrees in writing with the division of family  
85 services to sell such property and from the net proceeds of the sale repay the amount of  
86 assistance received during such period. If the property has not been sold within six months, or  
87 if eligibility terminates for any other reason, the entire amount of assistance paid during such  
88 period shall be a debt due the state;

89 (7) Is an inmate of a public institution, except as a patient in a public medical institution.

90 3. In determining eligibility and the amount of benefits to be granted pursuant to  
91 federally aided programs, the income and resources of a relative or other person living in the  
92 home shall be taken into account to the extent the income, resources, support and maintenance  
93 are allowed by federal law or regulation to be considered.

94 4. In determining eligibility and the amount of benefits to be granted pursuant to  
95 federally aided programs, the value of burial lots or any amounts placed in an irrevocable  
96 prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and  
97 subdivision (5) of subsection 1 of section 436.053, RSMo, shall not be taken into account or  
98 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged  
99 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as  
100 defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter  
101 marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable  
102 prearranged funeral or burial contract receives any public assistance benefits pursuant to this  
103 chapter and if the purchaser of such contract or his or her successors in interest cancel or amend  
104 the contract so that any person will be entitled to a refund, such refund shall be paid to the state  
105 of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with  
106 any remainder to be paid to those persons designated in chapter 436, RSMo.

107 5. In determining the total property owned pursuant to subdivision (5) of subsection 2  
108 of this section, or resources, of any person claiming or for whom public assistance is claimed,  
109 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or  
110 any two or more policies or contracts, or any combination of policies and contracts, which  
111 provides for the payment of one thousand five hundred dollars or less upon the death of any of  
112 the following:

113 (1) A claimant or person for whom benefits are claimed; or

114 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or  
115 she is living.

116

117 If the value of such policies exceeds one thousand five hundred dollars, then the total value of  
118 such policies may be considered in determining resources; except that, in the case of temporary  
119 assistance for needy families, there shall be disregarded any prearranged funeral or burial  
120 contract, or any two or more contracts, which provides for the payment of one thousand five  
121 hundred dollars or less per family member.

122 6. Beginning September 30, 1989, when determining the eligibility of institutionalized  
123 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for  
124 in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall

125 comply with the provisions of the federal statutes and regulations. As necessary, the division  
126 shall by rule or regulation implement the federal law and regulations which shall include but not  
127 be limited to the establishment of income and resource standards and limitations. The division  
128 shall require:

129       (1) That at the beginning of a period of continuous institutionalization that is expected  
130 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request  
131 an assessment by the division of family services of total countable resources owned by either or  
132 both spouses;

133       (2) That the assessed resources of the institutionalized spouse and the community spouse  
134 may be allocated so that each receives an equal share;

135       (3) That upon an initial eligibility determination, if the community spouse's share does  
136 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the  
137 community spouse a resource allowance to increase the community spouse's share to twelve  
138 thousand dollars;

139       (4) That in the determination of initial eligibility of the institutionalized spouse, no  
140 resources attributed to the community spouse shall be used in determining the eligibility of the  
141 institutionalized spouse, except to the extent that the resources attributed to the community  
142 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section  
143 1396r-5;

144       (5) That beginning in January, 1990, the amount specified in subdivision (3) of this  
145 subsection shall be increased by the percentage increase in the consumer price index for all urban  
146 consumers between September, 1988, and the September before the calendar year involved; and

147       (6) That beginning the month after initial eligibility for the institutionalized spouse is  
148 determined, the resources of the community spouse shall not be considered available to the  
149 institutionalized spouse during that continuous period of institutionalization.

150       7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods  
151 required and for the reasons specified in 42 U.S.C. Section 1396p.

152       8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to  
153 the provisions of section 208.080.

154       9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to  
155 this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the  
156 home of the applicant or recipient when the home is providing shelter to the applicant or  
157 recipient, or his or her spouse or dependent child. The division of family services shall establish  
158 by rule or regulation in conformance with applicable federal statutes and regulations a definition  
159 of the home and when the home shall be considered a resource that shall be considered in  
160 determining eligibility.

- 161           10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient  
162 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary  
163 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts  
164 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title  
165 XVIII Medicare Part B, except the applicable Title XIX cost sharing.
- 166           11. A "community spouse" is defined as being the noninstitutionalized spouse.